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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,557	01/16/2004	Rafael Rivera	84,440	5970

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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/758,557

Applicant(s)

RIVERA ET AL.

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
2. The following is a quotation of the sixth paragraph of 35 U.S.C. § 112:  
An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.
3. Claims 1-4 are rejected under 35 U.S.C. § 112, second and sixth paragraphs, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention and as improper means plus function type limitations. The claims are indefinite as terms, such as "frame means", "spreader means" and "track means", are not proper means plus function limitations, as to have the scope of the claims unclear. Note that the terms "frame", "spreader" and "track" are structures, not functions. For example, it is unclear as what would or would not be considered as a spreader "means". Is this a modern spreader or any load engager, such as a hook?
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:  
A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.  
  
This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.
6. Claims 1 and 3, as understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Sawyer. Sawyer shows a crane for transfer of containers between pick-up and delivery stations comprising:  
an elongated boom (8);  
a frame (7) supporting the boom in alignment with a fixed travel path (10 or 11) established by the crane;  
a platform (14) having a pair of track paths (21 and 21) established thereon;  
mounting means (12 and 13) supporting the platform for lateral displacement of the pair of track paths (21 and 21) relative to the fixed travel path (10 or 11);

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a pair of trolleys (9) on which containers are loaded at the pick-up station and unloaded at the delivery station; and

spreader means (hooks) respectively suspended from the trolleys to which the containers are attached for transfer thereof along the fixed path and either of the pair of track pair of track paths on the platform.

7. Claims 1-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in by Matsumoto et al. Taylor shows a crane for transfer of containers between pick-up and delivery stations comprising:

an elongated boom (D);

a frame (A) supporting the boom in alignment with a fixed travel path established by the crane;

a pair of trolleys (L, L<sup>1</sup>, L<sup>2</sup>) on which containers are loaded at the pick-up station and unloaded at the delivery station; and

spreader means (unlabeled) respectively suspended from the trolleys to which the containers are attached for transfer thereof along the fixed path and either of the pair of track pair of track paths on the platform.

Taylor varies from the claims by not having a laterally moving platform with a pair of track paths. Masumoto et al shows a switching system having a laterally moving platform with a pair of track paths (404 and 405) for automatic and efficient operation, see column 1, lines 28-37. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the hoisting and conveying machine of Taylor by using laterally moving platforms for the switches (F and F<sup>1</sup>), for automatic and efficient switching, as taught by Matsumoto et al. The frame (A) of Taylor includes a central structure, legs and wheeled trucks, as recited in claim 2. The boom projects to a location overlying a ship and to a location under the crane, as recited in claim 4.

8. Wright and Mordaunt et al are cited as showing related crane arrangements.

9. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas J. Brahan  
Primary Examiner  
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